REMARKS

Applicant is in receipt of the Office Action mailed June 14, 2007.

Claims 1 - 28 were pending in the application. Claims 29 – 40 have been added.

102 Rejections

Claims 1, 10, 19, and 28 stood rejected under U.S.C. 102 as being anticipated by Planas et al. (US Patent 6,112,015, "Planas"). Applicant respectfully traverses this rejection.

Applicant respectfully submits that Planas is not directed to monitoring application tiers (e.g., software applications executing on computers) and/or displaying information regarding attributes of application tiers. Rather, Planas is related to monitoring telecommunications hardware, and does not appear to perform any type of software monitoring.

In asserting that Planas discloses monitoring of application tiers, the Office Action cites col.2:52-54 and col.2:63-67, which respectively read:

> According to a third broad aspect, the invention provides a system for monitoring a telecommunications network consisting of a plurality of network objects…
>
> and
>
> …wherein the processing means imparts to each basic icon representative of said at least one network object at least one attribute selected from a predetermined set of possible attributes; wherein each attribute is representative of a different predetermined base state.

As may be seen, the cited text nowhere discloses or even mentions application tiers. Applicant respectfully notes that Planas is particularly directed to monitoring of network objects, which are defined in col.3:66-col.4:3:

> A telecommunications network consists of an interconnected set of network objects. There are three basic types of network objects, these being (1) network elements or nodes, (2) links, and (3) individual cards in a piece of shelf-based equipment.

Clearly, network elements or nodes, link, and individual cards in a piece of shelf-based equipment, are not application tiers, e.g., functional groupings of software applications running on one or more servers, such as database applications, storage applications, web server applications, etc. Applicant submits that Planas is directed to monitoring of telecommunication hardware devices, i.e., network objects are defined in Planas as being the above types of hardware, such as nodes, links, or cards.

Moreover, the text makes clear that Planas's system is directed to attributes representative of base states of such network objects, and in no way teaches tracking attributes associated with software application tiers.

Planas further fails to teach or suggest "displaying a plurality of objects each corresponding to a respective one of the application tiers" as well as "in response to detecting a change in the one or more attributes associated with a given application tier, altering the appearance of the corresponding object to reflect said change" for at least the reasons cited above.

Further, claim 1 has been amended to recite, in part:
wherein the application tiers execute on one or more server computers, wherein said monitoring is performed by agent software executing on each of the one or more server computers;

Planas does not teach any type of agent software executing on server computers which performs monitoring of application tiers. In fact, as Planas is directed to monitoring of telecommunications hardware (NOT software), Planas would have no need for, and could not use, agent software for monitoring purposes.

For at least the reasons provided above, Applicant respectfully submits that claim 1 and those claims dependent therefrom are patentably distinct and non-obvious over the cited art, and are thus allowable. Claims 10, 19, and 28 include similar limitations as claim 1, and so the above arguments apply with equal force to these claims. Thus, for at least the reasons provided above, Applicant respectfully submits that claims 10, 19, and

28, and those claims respectively dependent therefrom, are patentably distinct and non-obvious over the cited art, and are thus allowable.

Removal of the section 102 rejection of claims 1, 10, 19, and 28 is requested.

Claims 2-4, 6, 7, 11-13, 15, 16, 20-22, 24, and 25 stood rejected under U.S.C. 103(a) as being unpatentable over Planas, et al in view of Enchanted Learning.

Claims 9, 18, and 27 stood rejected under U.S.C. 103(a) as being unpatentable over Planas, et al in view of McMillian, et al.

Claims 5,14, and 23 stood rejected under U.S.C. 103(a) as being unpatentable over McMillian, et al as modified by Enchanted Learning.

Claims 8, 17, and 26 stood rejected under U.S.C. 103(a) as being unpatentable over McMillian, et al as modified by Enchanted Learning.

Applicant submits that since the base claims for the dependent claims rejected under section 103(a) have been shown above to be patentably distinct and non-obvious, their respective dependent claims are similarly patentably distinct and non-obvious, and thus allowable. Applicant thus respectfully requests removal of the section 103 rejection of the dependent claims.

Applicant also submits that numerous of the dependent claims are independently allowable. For example, with respect to claim 2, Applicant respectfully submits that the Examiner has made an improper combination. More specifically, Applicant submits that the Enchanted Learning article, dealing with children's learning, is non-analogous to the subject matter of the present application, which relates to software application performance monitoring. Further, the Enchanted Learning article is non-analogous to the telecommunication network monitoring field of the Planas reference. In particular, the reference to page 6, Figure 1, which is a star chart of a "T. Rex" "describing all you know about dinosaurs" is simply unrelated to the subject matter of both the present application and the other cited prior art. Thus, Applicant submits that the combination is improper. One of ordinary skill in the art would simply not look to the children's learning field to combine the references as proposed by the Examiner.

Applicant asserts that numerous other ones of the dependent claims recite further distinctions over the cited art. However, since the independent claims have been shown to be patentably distinct, a further discussion of the dependent claims is not necessary at this time.

New Claims

Applicant presents new dependent claims 29 – 40 and submits that new dependent claims 29 – 40 recite further allowable subject matter. For example, the cited references do not teach or suggest application tiers that comprise one or more of a database software application, a storage software application or a web service software application. As another example, the cited references do not teach various types of agent modules that execute on a database server, application server, and/or storage server. Thus Applicant submits that new dependent claims 29 – 40 are independently allowable.

CONCLUSION

In light of the foregoing amendments and remarks, Applicant submits the application is now in condition for allowance, and an early notice to that effect is requested. If a phone interview would speed allowance of any pending claims, such is requested at the Examiner's convenience.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above-referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. The Commissioner is hereby authorized to charge any fees which may be required or credit any overpayment to Meyertons, Hood, Kivlin, Kowert & Goetzel P.C., Deposit Account No. 50-1505/5760-14500/JCH.

Also filed herewith are the following items:

☒ Request for Continued Examination

☐ Terminal Disclaimer

☐ Power of Attorney By Assignee and Revocation of Previous Powers

☐ Notice of Change of Address

☐ Other:

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Respectfully submitted,

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